

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TQ Delta, LLC,
Plaintiff,

v.

CommScope Holding Company, Inc., *et al.*,
Defendants.

Civil Action No.: 2:21-CV-00310-JRG
(Lead Case)

TQ Delta, LLC,
Plaintiff,

v.

Nokia Corp., *et al.*,
Defendants.

Civil Action No.: 2:21-CV-00309-JRG
(Member Case)

**TQ DELTA, LLC'S OPPOSED MOTION TO EXTEND THE
FACT DISCOVERY DEADLINE AS TO NON-PARTY AT&T**

Plaintiff TQ Delta, LLC (“TQ Delta”) respectfully requests that the Court extend the fact discovery deadline to September 30, 2022 only in regard to the documents and things that may be produced in response to a third-party subpoena served by TQ Delta on non-party AT&T, Inc. (“AT&T”). TQ Delta makes this request with good cause and it is being made to further the interests of justice, not to cause undue delay or prejudice. The Nokia Defendants¹ and the CommScope Defendants² are opposed to this Motion.

Per the governing Docket Control Order (Dkt. No. 249), the fact discovery deadline for this case is on August 19, 2022. On June 1, 2022, TQ Delta served AT&T with a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (“Subpoena”). On June 9, 2022, AT&T served its objections to this Subpoena. TQ Delta and AT&T have been actively conferring on the requests made within the Subpoena and have held multiple video-conference calls. These video-conference calls occurred on July 21, August 3, August 18, and August 19. TQ Delta and AT&T have been amicably resolving the disputes that exist between them and AT&T has represented that it is still actively searching for responsive documents. These efforts are expected to last until after the close of fact discovery and may require until September 30, 2022 to be completed. TQ Delta, therefore, expects that documents and things will be produced by AT&T after the close of fact discovery.

Accordingly, TQ Delta respectfully requests that the Court extend the fact discovery only as to the documents and things that may be produced by AT&T in response to the Subpoena served

¹ Defendants Nokia Corporation, Nokia Solutions and Networks Oy, and Nokia of America Corporation.

² CommScope Holding Company, Inc., CommScope Inc., Arris International Limited, Arris Global Ltd., Arris US Holdings, Inc., Arris Solutions, Inc., Arris Technology, Inc., and Arris Enterprises, LLC.

on it by TQ Delta to September 30, 2022. In accordance with Federal Rule of Civil Procedure 45, if granted, this request will fairly and reasonably alleviate the burden on a non-party. *See* Fed. R. Civ. 45(d)(1) (“A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.”). Further, TQ Delta understands that AT&T has been and is currently actively searching for documents and it is, therefore, likely that it will produce responsive materials earlier than September 30, meaning the issue between the parties will potentially be resolved in the relatively near future.

The Defendants will, also, not suffer any undue prejudice by the granting of this request. TQ Delta is seeking the Court’s intervention now, as opposed to when AT&T makes the production of documents, in order to head off any claims of surprise or undue prejudice in relation to the production of documents post the fact discovery deadline. TQ Delta has been diligently seeking documents from AT&T and is trying to make reasonable accommodations for a third-party responding to a Rule 45 subpoena by seeking this narrow extension to the fact discovery deadline.

In conclusion, TQ Delta respectfully requests that the Court extend the fact discovery only as to the documents and things that may be produced by AT&T in response to the Subpoena served on it by TQ Delta to September 30, 2022.

Dated: August 19, 2022

/s/ William E. Davis, III

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Counsel for TQ Delta, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document and all attachments thereto are being filed electronically in compliance with Local Rule CV-5(a). As such, this document is being served this August 19, 2022 on all counsel of record, each of whom is deemed to have consented to electronic service. L.R. CV-5(a)(3)(A).

/s/ William E. Davis, III
William E. Davis, III

CERTIFICATE OF CONFERENCE

The undersigned certifies that counsel have complied with the meet-and-confer requirements of Local Rule CV-7(h) and (i). Counsel for TQ Delta emailed counsel for Defendants prior to the filing of this Motion. This Motion is opposed because the Defendants did not agree to the extension to the fact discovery deadline requested above.

/s/ William E. Davis, III
William E. Davis, III